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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/556,352

04/10/2006

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EXAMINER

SAID, MANSOUR M

ART UNIT

PAPER NUMBER

2629

NOTIFICATION DATE

DELIVERY MODE

10/08/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com  
pto@gbpatent.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/556,352	<b>Applicant(s)</b> MARUYAMA ET AL.	
	<b>Examiner</b> MANSOUR M. SAID	<b>Art Unit</b> 2629	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 June 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 7-10 and 18-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 11-15 and 17 is/are rejected.
- 7) ☒ Claim(s) 5 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Election/Restrictions**

1. Claims 7-10 and 18-21 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 6/6/08.

Examining all these species together would cause a serious burden for the Examiner; therefore, the election species requirement is maintained.

### **Double Patenting**

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

**3. Claims 1-6, 11 and 12-17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. 5,869,959. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-6, 11 and 12-17 of current Application are broader than claims 1-8 of U.S. Patent No. 5,869,959.**

4. The omission of an element and its function where not needed is obvious. *Ex parte Rainu*, 168 USPQ 375 (PTO Bd. Of App. 1969). The omission of an element and its function in a combination is an obvious expedient if the remaining elements perform the same functions as before. *In re Karlson*, 136 USPQ 184 (CCPA 1963).

***Claim Rejections - 35 USC § 102***

**5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:**

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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**6. Claims 1, 4, 6, 11-12, 15 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Tomikawa (5,869,959).**

**As to claim 1**, Tomikawa teaches a signal measurement/display device (figure 6) comprising: a measuring means that measures a signal to be measured for respective frequencies and outputs a measurement value (figures 6-15, and column 5, line 50 through column 6, line 20); a displaying (figure 6, (22)) means that displays the signal to be measured with the measurement value being assigned to one axis and the frequency being assigned to another axis (figures 6-15, column 5, line 50 through column 6, line 20 and column 10, lines 51-67); a portion specifying means that specifies a portion upon a display screen of said displaying means (figures 6-15, column 5, line 50 through column 6, line 20, column 10, lines 51-67); and an operation deciding means that decides an operation of said measuring means or said displaying means based upon the portion specified by said portion specifying means (figures 6-15, column 5, line 50 through column 6, line 20, column 10, lines 51-67).

**As to claim 11**, Tomikawa teaches a signal measurement/display method of a signal measurement/display device (figures 6-15) having: a measuring means that measures a signal to be measured for respective frequencies (figures 6-15, and column 5, line 50 through column 6, line 20), and outputs a measurement value; a displaying means that displays the signal to be measured with the measurement value being assigned to one axis and the frequency being assigned to the other axis (figures 6-15, column 5, line 50 through column 6, line 20 and column 10, lines 51-67); and a portion specifying means that specifies a portion upon a display screen of said displaying means (figures 6-15, column 5, line 50 through column 6, line 20, column 10, lines 51-67); said method comprising: an operation deciding step of deciding an operation of

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said measuring means or said displaying means based upon the portion specified by said portion specifying means (figures 6-15, column 5, line 50 through column 6, line 20, column 10, lines 51-67).

. **As to claim 12**, Tomikawa teaches a signal measurement/display device comprising: a detector (figure 6, (15)) that measures a signal to be measured for respective frequencies, and outputs a measurement value (figures 6-15, and column 5, line 50 through column 6, line 20); a display (22) that displays the signal to be measured with the measurement value being assigned to one axis, and the frequency being assigned to another axis (figures 6-15, column 5, line 50 through column 6, line 20 and column 10, lines 51-67); an input device that specifies a portion upon a display screen of the display (figures 6-15, column 5, line 50 through column 6, line 20, column 10, lines 51-67); and a decision section that decides an operation of the input device or said display based upon the specified portion (figures 6-15, column 5, line 50 through column 6, line 20, column 10, lines 51-67).

**As to claims 4 and 15**, Tomikawa teaches wherein said operation deciding means decides a detection (figure 6, (15)) range for said measuring means to detect a maximal value of the measurement value based upon the portion specified by said portion specifying means (figures 6-15 and column 5, line through column 6, line 20).

**As to claims 6 and 17**, Tomikawa teaches wherein said operation deciding means decides the detection range based upon an area enclosed by the portions specified by said portion specifying means (figures 6-15 and column 5, line through column 6, line 20).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**8. Claims 2-3 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomikawa in view of Pangrac et al. (2003/0134599 A1; hereinafter referred as Pangrac).**

**As claims 2-3 and 13-14,** Tomikawa teaches all claimed limitations except a touch display screen a moving a marker.

However, Pangrac teaches an electronic device includes a touch display screen (figure 1, (101) a moving a marker (icons, (figure 1, (119, 121)) (figures 1-2 and page 2, paragraph 0020).

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to incorporate Pangrac's touch screen includes an icon into Tomikawa's device so as to take the appropriate action or displays a predetermined or calculated result (page 2, paragraph 0020).

***Allowable Subject Matter***

**9. Claims 5 and 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

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The following is a statement of reasons for the indication of allowable subject matter:  
“wherein said operation deciding means decides the detection range based upon a value obtained by adding or subtracting a predetermined value to or from a coordinate of the portion specified by said portion specifying means”.

### **Conclusion**

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Obie et al. (5,038,096) teaches a spectrum analyzer circuit for pulsed input signals.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mansour M. Said whose telephone number is 571-272-7679. The examiner can normally be reached on Monday through Thursday from 8:30-6:00 P.M. The examiner can also be reached on alternate Friday from 8:30 a.m. to 5:00 p.m. EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard A. Hjerpe whose telephone number is 571-272-7681.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to: 571-273-8300 (for Technology Center 2600 only)

Hand-delivered responses should be brought to the Customer Service Window at the Randolph Building, 401, Dulany Street, Alexandria, VA 22314.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/MANSOUR M SAID/

Examiner, Art Unit 2629

/Richard Hjerpe/

Supervisory Patent Examiner, Art Unit 2629